

Remarks/Arguments

Claims 63-66, 68-78 and 94-95 are pending in the application.

By this amendment, claims 63-66, 68-71, 73-74 and 76 have been amended, claims 62 and 67 have been canceled and new claims 94-95 have been added.

Applicant believes the amendments made herein add no new matter. Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based on prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to be attached thereto. Reconsideration and reexamination of the application is respectfully requested in view of the amendments and the following remarks.

REJECTION UNDER 35 U.S.C. §112

Claims 62 and 76 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The rejection is respectfully traversed. By this amendment, independent claim 62 is replaced with independent claim 94. The basis for the rejection of claims 62 and 76 was rooted in claim 62, which is now moot with the cancellation of claim 62. Applicant respectfully requests withdrawal of the rejection.

REJECTION UNDER 35 U.S.C. §102(B)

Claims 62-63 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,634,600 to Kubota. The rejection is respectfully traversed. Claim 62 has been canceled, therefore the rejection with respect to this claim is moot. Claim 63 has been amended to ultimately depend from new independent claim 94; therefore, the rejection will be addressed with respect to claim 94.

The Examiner has relied upon Kubota to teach the production of dried pieces of organic waste via the reduction of raw organic waste to pieces and drying of the raw organic waste pieces. Kubota teaches grinding the waste into small pieces by a grinding and stirring means and then this dry waste is periodically recovered and discarded. Thus, the end product disclosed in

Kubota is unbound fragments of organic waste dust that must be removed periodically from the waste container.

Claim 94 calls for a process for producing a biodegradable solid of organic waste. This biodegradable solid is formed via reducing raw organic waste to pieces, mixing the pieces with a biodegradable binder to form a mixture and forming a unitary biodegradable solid from the mixture by drying the mixture wherein the reduced raw organic waste pieces are converted to a unitary biodegradable solid. Thus, the result of the process of claim 94 is a unitary biodegradable solid, which is not the organic waste dust of Kubota. Because Kubota does not disclose this claim element, Kubota does not anticipate claim 94.

In particular, Kubota does not disclose mixing the waste pieces with a biodegradable binder to form a mixture and forming a unitary biodegradable solid from the mixture by drying the mixture wherein the reduced raw organic waste pieces are converted to a unitary biodegradable solid. Rather, in Kubota, the waste pieces are merely dried and disposed of. Kubota also does not disclose forming a unitary biodegradable solid from the waste pieces by drying. Kubota does not anticipate claim 94.

Claim 63 depends directly from amended claim 94; they are for the same reasons patentable over Kubota. Applicants request withdrawal of the rejection, and the allowance of claims 94 and 63.

Rejection Under 35 U.S.C. §103(a)

Claims 64-78 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 3,819,456 to Enfield in view of Kubota. The rejection is traversed.

As discussed above, claim 62 has been canceled and new claim 94 has been added. Claims 64-66, and 68-78 have been amended to ultimately depend from new independent claim 94; therefore, the rejection will be addressed with respect to claim 94.

Enfield discloses a structural insulation board fabricated of treated refuse, and the method for preparing the same. The method includes the steps of shredding or grinding organic waste, inorganic waste, or a combination of the two, mixing the same with a slurry of a binder, molding the mixture into sheets, encasing the sheets in cement, and drying the sheets. Another

embodiment includes the steps of shredding or grinding organic waste, inorganic waste, or a combination of the two, mixing the same with a fireproofing material, and drying the mixture before it used as insulation. Essentially, Enfield teaches using the end product as a construction or building material, which is not biodegradable. Otherwise, it would be unsuitable for use as a building material.

The combination of Enfield and Kubota, regardless of how they are combined, will not include a unitary biodegradable solid of organic waste. As discussed above, Kubota does not disclose such a unitary biodegradable solid of organic waste. Enfield also does not disclose such a unitary biodegradable solid of organic waste in the drawings or in the text. Given that neither Enfield nor Kubota disclose such a unitary biodegradable solid of organic waste, the combination of the two references will also not disclose a unitary biodegradable solid of organic waste. At best when combined the result would be a shaped structural building material that is not biodegradable and would not reach the unitary biodegradable solid of organic waste disclosed in claim 94.

In fact, the combination with Enfield actually teaches away from the invention. The combination based on Enfield converts the organic waste, in this case the dust from Kubota, to structural building material, which must be non-biodegradable to function as a building material. The combination does not care about the nature of the organic waste because the sheet formed from the waste is encased in cement to form the building material. This is in contrast to Applicants invention, which results in a unitary, biodegradable solid of organic waste. As such, the combination teaches away from the invention of claim 94. The combination does not disclose a unitary *biodegradable* solid of organic waste. As described and illustrated in the specification, this “block” of biodegradable solid may then be placed in a garden or the like near a plant where it will biodegrade when exposed to the elements and function as fertilizer. The combination does not do this.

As claims 64-66, and 68-78 depend from claim 94, claims 64-66, and 68-78 necessarily include the unitary biodegradable solid of organic waste found in claim 94. Given that the combination fails to disclose the claim element of a unitary biodegradable solid of organic waste

as called for by claim 94, the combination fails to disclose every element of the claims. Therefore, claims 64-66, and 68-78 are not obvious in view of the combination.

For these reasons, claims 64-66, and 68-78 are patentable over Enfield in view of Kubota. Applicant requests withdrawal of the rejection, and the allowance of claims 64-66, and 68-78.

Claim 73, which ultimately depends from claim 94, further defines over Enfield in view of Kubota and calls for re-use, in a subsequent process for producing a unitary biodegradable solid, of liquid water converted from captured water vapor emitted while drying the mixture. Neither Enfield nor Kubota shows re-use of the captured water. The Examiner misstates that Kubota discloses "the reuse of the captured water." (Page 14 citing Kubota, 1, 13-24 and 1, 45-63). This characterization of Kubota is wrong. Kubota teaches that the condensate collected in the condensate container is periodically recovered and discarded. (Kubota, 5, 1-5). It therefore follows that claim 73 is independently patentable over Enfield in view of Kubota.

CONCLUSION

For the reasons discussed above, claims 63-66, 68-78 and 94-95 are allowable over the prior art. Applicant requests an Advisory action be issued in this case. If there are any remaining issues which the Examiner believes may be resolved in an interview, the Examiner is respectfully invited to contact the undersigned. Early notification of allowability is respectfully requested.

Respectfully submitted,

ALEXANDER MANU

Date: May 9, 2008

By: /Mark A. Davis/
Mark A. Davis, Reg. No. 37,118
McGARRY BAIR PC
32 Market Ave. SW, Suite 500
Grand Rapids, Michigan 49503
(616) 742-3500